



**Asia-Pacific
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How Free Trade Agreements and Regional Trade Agreements Can Contribute to Economic Growth - The New Zealand Experience on Structural Reform

Submitted by: New Zealand



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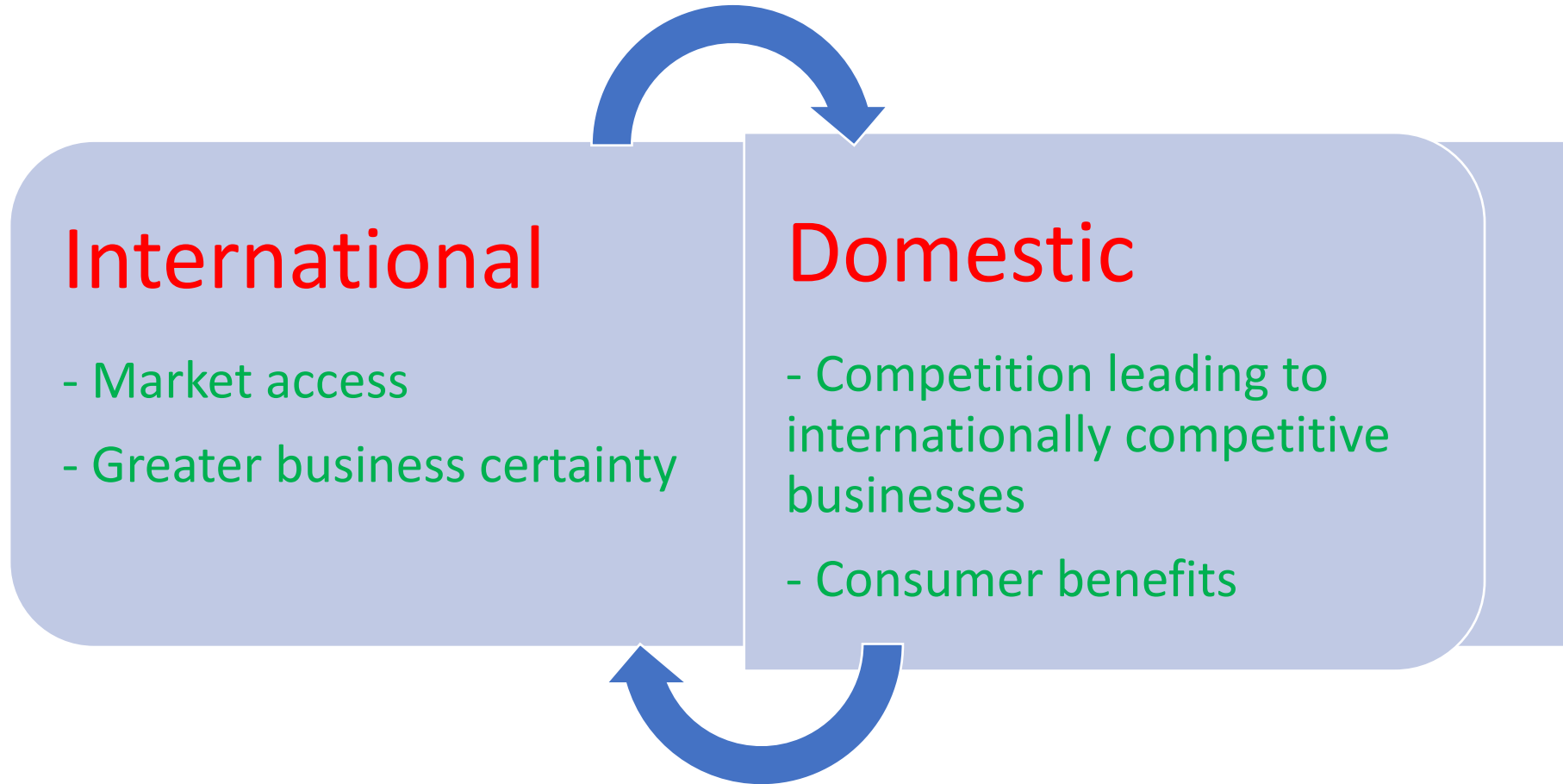
HOW FTAs/RTAs CAN CONTRIBUTE TO ECONOMIC GROWTH

THE NEW ZEALAND EXPERIENCE ON STRUCTURAL REFORM

By Rory McLeod

Port Moresby, 18 August 2018

Trade Liberalisation – A Virtuous Cycle



FTAs/RTAs Can Benefit Structural Reform

- Increasing recognition that all parties will benefit from an improved business environment;
- Benefits will increase if structural reform based on international regulatory cooperation;
- Can be used as a helpful source of pressures to implement sensible policies and laws in the face of domestic opposition.

But FTAs/RTAs Can Entail Risks for Structural Reform

Inappropriate rules	<ul style="list-style-type: none">• Lack of readiness• Big economy rules for small economies
Inferior rules	<ul style="list-style-type: none">• Interest group capture• Lack of policy analysis
Poor process	<ul style="list-style-type: none">• Lack of cost-benefit analysis• Poor public consultation

TPP Intellectual Property Provisions Suspended in CPTPP

- Copyright term extension
- Extended data protection for biologic pharmaceuticals
- Patent term extension for office and regulatory delays
- Restrictions on patentability flexibilities
- Added protection for technological protection measures
- New rules on electronic rights management information
- Limitations on internet service provider liabilities
- New rules on national treatment for IP

New Zealand Approaches to Structural Reform in FTAs/RTAs

- Framework Chapters
- Building on Existing FTAs/RTAs

Framework Chapter: Example 1: Competition Policy in CPTPP

Commitments that each member shall:

- Introduce or maintain competition laws (that take into account the *APEC Principles to Enhance Competition and Regulatory Reform*);
- Apply laws on a comprehensive basis subject to the right to maintain exemptions in specified circumstances;
- Maintain an enforcement authority or authorities;
- Provide for due process and private rights of action;
- Facilitate cooperation between enforcement authorities.

Framework Chapter: Example 2: Regulatory Coherence in CPTPP: Requirements on Each Party

- Establish processes or mechanisms to facilitate effective interagency coordination and review of covered measures;
- Encourage relevant regulatory agencies to conduct regulatory impact assessments;
- Ensure that any reform of covered regulatory measures define the problem to be addressed, include options to do so, explain the grounds for selecting the preferred alternative and rely on the best available evidence;
- Ensure that covered regulatory measures are available to the public and described in a transparent fashion and where applicable, available online;
- Review covered regulatory measures, at intervals the Party deems appropriate;
- To the extent appropriate and in accordance with its law, take account of regulatory measures in other Parties and international agencies

Advantages of Framework Chapter Approach

- Commitment to put in place basic laws and institutions;
- Significant flexibility then provided as to nature of laws and institutions and how these are put in place (neither example subject to dispute settlement);
- Encourages movement to next step on international regulatory cooperation;
- Draws on builds on existing APEC work in each field.

Building of Existing RTAs/FTAs: ANZ Single Economic Market (SEM)

Consists of bilateral regulatory coordination in the following areas of structural reform:

- Competition and consumer law;
- Corporate law and governance (eg insolvency law and financial reporting);
- Intellectual property law;
- Financial sector law.

SEM Principles

- Persons in Australia or New Zealand should not have to engage in the same process or provide the same information twice;
- Measures should deliver substantively the same regulatory outcomes in both countries in the most efficient manner;
- Regulated occupations should be able to operate seamlessly between each country;
- Both Governments should seek to achieve economies of scale and scope in regulatory design and implementation;
- Products and services supplied in one jurisdiction should be able to be supplied in the other;
- The two countries should seek to strengthen joint capability to influence international policy design; and
- Outcomes should seek to optimise net Trans-Tasman benefit.

Advantages of Building on Existing RTAs/FTAs

- Governed by an overall set of principles stressing best practice;
- Each issue can be dealt with on its own merits and when the time is right'
- Strict norms around transparency and good process;
- Encourages regulatory cooperation to be extended more broadly, including to the rest of the APEC region.